**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO.330 OF 2003**

Shankar Hanumant Pawar and others ..Petitioners

V/s.

Vijay B. Joshi ..Respondents
Deputy Municipal Commissioner and others

Mr.N.R.Bubna, advocate for petitioners
Mr.A.S.Rao, advocate for respondents

**Coram : D.G.Karnik, J**

**Date : 9th November, 2006**

**P.C.**

1. This contempt petition is filed alleging breach of the order dated 4th October, 2002 passed by the Division Bench of this Court in Writ Petition No.952 of 2002.

2. The petitioners herein had filed Writ Petition No.952 of 2002 for getting benefits under the 5th Pay Commission. By an order dated 4th October, 2002 the Division Bench directed respondent No.2 Municipal Corporation to pay to the teachers pay as per the 5th Pay Commission from the

date of filing of the petition i.e.1st August, 2001. The order was subsequently modified, and the respondent No.2 was granted time to pay arrears from August, 2001 till May, 2003 till 31st January, 2004. According to the petitioners, despite these orders the respondents are not paying the dues and benefits as per 5th Pay Commission.

3. The respondents have filed an affidavit in reply denying averments made in the petition. They have stated that benefits as per the 5th Pay Commission have been given. The petitioners, however, are calculating three benefits namely they are entitled to two increments, they are entitled to travelling allowance and they are entitled to senior pay scale.

4. The learned counsel for the petitioners was unable to show any of the provision of 5th Pay Commission that the petitioners are entitled to two increments, they are entitled to travelling allowance and they are entitled to senior pay scale. He however submitted that the Government of Maharashtra by its resolution dated 13th May, 1999

has resolved that the teachers would be entitled to the aforesaid three benefits. It is not in dispute that the Government of Maharashtra is free to grant certain benefits other than those allowed by the 5th Pay Commission. According these additional benefits were allowed under the Government Resolution dated 13th May, 1999. The benefits under the Government Resolution dated 13th May, 1999 do not form a part of the benefits under the 5th Pay Commission. This Court directed the respondent No.2 Corporation to pay salary as per 5th Pay Commission and not as per the Government Resolution dated 13th May, 1999. If the petitioners are otherwise entitled to the benefits of the Government Resolution dated 13th May, 1999 it is open to them to take out a separate proceeding for claiming those benefits. It cannot be said that not granting the benefits as per the Government Resolution dated 13th May, 1999, amounts to breach of the order of the Court to grant benefits of the 5th Pay Commission.

5. For these reasons there is no merit in this petition which is hereby dismissed.

(**D.G.Karnik**, **J.**)